

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: RICHARD LEE VAN DYKE)	
DBA DICK VAN DYKE REGISTERED)	File No. 1100244
INVESTMENT ADVISER)	

Notice of Hearing

TO THE RESPONDENTS: Richard Lee Van Dyke (CRD Number 5182299)
DBA Dick Van Dyke Registered Investment
Adviser(CRD Number 141251)

c/o Michael D. Morehead
Hinshaw & Culbertson
400 S. Ninth St., Suite 200
Springfield, IL 62701

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953, [815 ILCS 5/1 et seq.] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 300 W. Jefferson St., Suite 300A, Springfield, Illinois 62702, on the 15th Day of May, 2013 at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, before Jon K. Ellis, or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order should be entered against Richard Lee Van Dyke D/B/A Dick Van Dyke Registered Investment Adviser ("Dick Van Dyke") which retroactively revokes or suspends his Investment Adviser and Investment Adviser Representative registrations. Additionally, said hearing will be held to determine whether an order which prohibits the Respondents from offering or selling securities in the State of Illinois and granting such other relief as may be authorized under the Act including but not limited to imposition of a monetary fine in the maximum amount pursuant to Section 11 of the Act, payable within ten (10) days of the entry of the Order.

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The grounds for such proposed action are as follows:

Summary

This case involves a former registered investment adviser and investment adviser representative who during the time period he was registered with the Illinois Securities Department ("the Department") defrauded over 21 clients, all of whom are senior citizens, of \$263,822.13. Dick Van Dyke holds himself out as an author and nationally recognized retirement educator who is an expert on Indexed Annuities and retirement planning. Dick Van Dyke specifically targets senior citizens through his web site, newspaper advertisements and free lunch seminars. Some of the seminars were characterized as educational workshops on social security benefits for persons age 55 or older. Dick Van Dyke recommended and sold 31 transactions that resulted in the early surrender of Indexed Annuities in order to purchase new Indexed Annuities. For these transactions Dick Van Dyke received \$160,937.05 in commissions but his clients lost \$263,822.13 in surrender charges, penalties and other fees. In addition, Dick Van Dyke, in all but one transaction, had sold the surrendered Indexed Annuity and had received \$155,341.51 in commissions from the transactions.

1. Richard Lee Van Dyke DBA Dick Van Dyke Financial Registered Investment Adviser ("Dick Van Dyke") was an Investment Adviser and Investment Adviser Representative registered in Illinois from July 25, 2006 through December 31, 2007 and August 7, 2008 through December 31, 2011. He is also licensed to sell insurance in the State of Illinois.
2. Beginning in 2006, Dick Van Dyke advertised financial and retirement planning seminars held at local hotels, restaurants and other venues offering free dinners and other meals.
3. Some of the seminars were advertised as Social Security Workshops and were described as: "our educational workshop designed for individuals and couples 55 or older."
4. In addition to newspaper advertisements and retirement planning seminars, Dick Van Dyke also from 2006 through the present maintained a web site located at dickvandykefinancial.com.

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5. Through his website and other advertisements, Dick Van Dyke states that he is a "...nationally recognized retirement educator" and his web site contains purported educational retirement planning videos and other materials.
6. Additionally, he advertises that he has a designation of CSA, Certified Senior Adviser.
7. Dick Van Dyke's advertisement, marketing and purported retirement planning educational materials are primarily targeted towards senior citizens.
8. Through these seminars, his website and other advertisements, Dick Van Dyke obtained investment advisory clients and in later meetings provided investment advice, financial planning and recommendations to purchase financial products including Indexed Annuities.
9. Sales of some of these financial products, including Indexed Annuities, were effected through Dick Van Dyke Financial, Ltd., a wholly owned corporation of Richard Lee Van Dyke.
10. As of August 2011, the Respondents had over 100 clients.
11. On or about August 2011, the Department initiated an audit/examination of the Respondents.
12. During its audit and investigation, the Department discovered that from February 2009 through October 2010, the Respondents effected 31 purchase transactions involving the liquidation of their clients' previously owned Indexed Annuities to purchase one or more new Indexed Annuities.
13. All of the purchase transactions reviewed by the Department involved persons age 58 or older at the time of the transactions with the oldest person at age 82.
14. In total, \$2,304,715.09 of Indexed Annuities were surrendered before their surrender period had expired and \$2,055,474.60 of new Indexed Annuities were purchased in these 31 transactions.
15. The surrendered annuities were all issued by one insurance company and included a Market Value

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Adjustment which was a derivative value calculated by a formula tied to current U.S. interest rates. This value could be positive or negative and would be applied to the accumulated value of the Indexed Annuity to determine a final accumulated value. The surrender charge is calculated as a percentage of the final accumulated value.

16. In these 31 transactions the surrendered Indexed Annuities had positive Market Value Adjustments resulting in higher accumulated values for the surrendered Indexed Annuities and greater surrender charges.
17. Indexed Annuities are financial products meant to be held by investors for the long term. As such, if an Indexed Annuity is liquidated or surrendered early before the completion of a surrender period, the investor is subject to a surrender charge based upon the length of time the Indexed Annuity was held. The surrender penalty is reduced based upon the length of time the product is held. In addition, if an Indexed Annuity is surrendered/liquidated early, the investor may be subject to a recapture of any bonus paid to the investor upon the initial purchase of the Indexed Annuity.
18. Under Illinois law, Indexed Annuities are securities subject to the Act. However, if the Indexed Annuity meets certain requirements under the Act, the Indexed Annuity is exempt from registration with the Department under the Act and the persons selling them are exempt from securities salesperson and/or dealer registration under the Act. Though an Indexed Annuity may be exempt from registration, the sale of the product is still subject to the other provisions of the Act.
19. The Department's analysis of the above transactions determined that 28 existing Indexed Annuities held by the Respondents' clients were liquidated resulting in \$263,822.13 in losses from surrender charges, other penalties and fees.
20. The remaining funds, minus some client withdrawals were used to purchase new, replacement Indexed Annuities. Dick Van Dyke earned \$160,937.05 in commissions from the sale of these new replacement Indexed Annuities.

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21. In all of the transactions but one, the existing Indexed Annuity had been sold to the client by Dick Van Dyke and for which Dick Van Dyke earned \$155,341.51 in commissions.
22. In total, Dick Van Dyke earned \$316,278.56 in commissions from the sale of these Indexed Annuities while his clients lost \$263,822.13 due to surrender charges, penalties and fees.
23. In all 31 transactions, the new Indexed Annuities had higher fees imposed by the insurance company for that Indexed Annuity than the previous Indexed Annuity. The higher fees ranged from 0.6% to 2.95% percent of the account value charged on an annual basis.
24. Additionally, twelve of the new Indexed Annuities offered a bonus dollar amount to the investment for which the investor paid an additional fee of 1.05% for a period of six or twelve years depending on the specific Indexed Annuity.
25. All of the above transactions were solicited and made at the recommendation of Dick Van Dyke or as part of investment advice and/or financial planning provided by the Respondents.
26. The following three examples are illustrative of the fraudulent and deceptive nature of the recommended transactions.
27. GS and BS are husband and wife ages 66 and 64 at the time of the replacement transaction. Dick Van Dyke solicited and recommended to them to surrender three Indexed Annuities he sold individually to them (two to GS and 1 to BS) in 2007 in order to purchase three new Indexed Annuities in April 2010. This transaction of the surrender of three Indexed Annuities in order to purchase three new Indexed Annuities caused BS and GS to suffer a total of \$32,820.14 in surrender charges and other penalties. Dick Van Dyke earned commissions of \$18,008.25 on top of the \$16,642.10 he had previously earned from selling the surrendered Index Annuities in 2007 to the couple for a total of \$34,650.35.
28. RF, age 65 at the time of the transaction, was solicited and recommended by Dick Van Dyke to surrender one Indexed Annuity sold to him in 2009 in order to

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purchase two new Indexed Annuities in October 2010. This transaction of the surrender of one Indexed Annuity in order to purchase two new Indexed Annuities caused RF to suffer surrender charges and other penalties of \$26,841.43. Dick Van Dyke earned commissions of \$9,654.52 on top of the \$11,189.80 he earned from selling the surrendered Indexed Annuity to RF in 2009 for a total of \$20,844.32.

29. JW, age 63 at the time of the transaction, was solicited and recommended by Dick Van Dyke to surrender two Indexed Annuities sold to her in 2005 in order to purchase three new Indexed Annuities in February 2009. This transaction of the surrender of two Indexed Annuities in order to purchase three new Indexed Annuities caused JW to suffer surrender charges and other penalties of \$25,835.56. Dick Van Dyke earned commissions of \$18,601.61 on top of the \$19,423.36 he earned from selling the two surrendered Indexed Annuities to JW in 2005 for a total of \$38,024.97.
30. Rule 853 of the Rules and Regulations Under the Illinois Securities Law of 1953, 14 Admin Code 130.100 et seq., provides: "Effecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice, or course of business on the part of the registered investment adviser or its representatives effecting such transactions or causing the transactions to be effected that is fraudulent, deceptive or manipulative."
31. That Section 12.A of the Act provides, inter alia, that it shall be a violation of the Act for any person to offer or sell any security except in accordance with the provisions of this Act.
32. That Section 12.F of the Act provides, inter alia, that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
33. That Section 12.G of the Act provides, inter alia, that it shall be a violation of the Act for any person to obtain money or property through the sale of securities

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by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

34. That Section 12.I of the Act provides, inter alia, that it shall be a violation of the Act for any person to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.
35. That Section 12.J of the Act provides, inter alia, that it shall be a violation of the Act for any person when acting as an investment adviser, investment adviser representative, or federal covered investment adviser, by any means or instrumentality, directly or indirectly:
 - (1) To employ any device, scheme or artifice to defraud any client or prospective client;
 - (2) To engage in any transaction, practice, or course of business which operates a fraud or deceit upon any client or prospective client; or
 - (3) To engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative.
36. That by virtue of the foregoing, the Respondents have violated sections 12.A, F, G, I and J of the Act.
37. That Section 8.E.1 (b) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has engaged in any unethical practice in connection with any security; the offer or sale of securities or any fraudulent business practice.
38. That Section 8.E.1 (f) provides, inter alia, that the registration of an investment adviser may be suspended or revoked if the Secretary of State finds that the

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investment adviser has failed reasonably to supervise the advisory activities of any of its investment adviser representatives or employees and the failure has permitted or facilitated a violation of Section 12 of the Act.

39. That Section 8.E.1 (g) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has violated any provisions of the Act.
40. That Section 8.E.1 (m) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the investment adviser or investment adviser representative.
41. That by virtue of the foregoing, the Respondents' registrations are subject to suspensions or revocations pursuant to Section 8.E.1(b), (f), (g) and (m) of the Act.
42. That Section 8.E.3 provides, inter alia, that the Secretary of State may institute a revocation or suspension proceeding within 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.
43. That Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsections F, G, I or J of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities in this State.
44. That Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose an order of censure or a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.

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45. That by virtue of the foregoing, the Respondents are subject to a fine of up to \$10,000.00 per violation, an order of censure an order which permanently prohibits the Respondents from offering or selling securities in the State of Illinois and an order that suspends or revokes their investment adviser and/or investment adviser representative registrations in the State of Illinois.

You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above or a Special Appearance pursuant to Section 130.1107 of the Rules, or other responsive pleading within thirty days of the receipt of this notice. Your failure to do so within the prescribed time shall be deemed an admission of the allegations contained in the Notice of Hearing and waives your right to a hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default.

Delivery of notice to the designated representative of any Respondent constitutes service upon such Respondents.

Dated this 7th day of March , 2013.


Jesse White
Secretary of State
State of Illinois

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